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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,703	03/19/2001	Terrance Moore	24996	9723

7590 04/09/2003

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EXAMINER

FRENEL, VANEL

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 04/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/812,703

Applicant(s)

MOORE ET AL.

Examiner

Vanel Frenel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed March 2001. Claims 1-20 are pending.

Claim Objections

2. Claim 14 is objected to because it is incomplete. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Javors (US 2002/0152097) in view of McCallum (5,784,635).

(A) As per claim 1, Javors discloses a method of collecting fees for managing and optimizing the profitability of a plurality of physicians in a healthcare practice participating in an insurance network (Abstract, lines 1-16; Page 1, Paragraph 0014-0016), the method comprising the steps of:

funding an incentive pool to be paid to the healthcare practice participating in the insurance network if the ancillary medical costs of the plurality of physicians (Page 6,

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Paragraph 0084-0085); and distributing predetermined percentages of savings attributed to the physicians' modified ancillary medical cost management behavior (Page 3, Paragraph 0037-0040). Javors does not explicitly disclose establishing a relationship between a healthcare consultation group and the healthcare practice participating in the insurance network to increase the physician's profitability by reducing a risk of not receiving a predetermined reimbursement amount for ancillary medical costs from the insurance network; and the healthcare practice do not decrease to a preselected level over a preselected period of time.

However, this feature is known in the art, as evidenced by McCallum. In particular, McCallum suggests establishing a relationship between a healthcare consultation group and the healthcare practice participating in the insurance network to increase the physician's profitability by reducing a risk of not receiving a predetermined reimbursement amount for ancillary medical costs from the insurance network; and the healthcare practice do not decrease to a preselected level over a preselected period of time (See McCallum, Col.8, lines 36-67 to Col.9, line 22).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of McCallum within the system of Javors with the motivation of providing physician groups with detailed cost information regarding their patients to facilitate cost and care management in individual practices (See McCallum, Col.3, lines 48-62).

(B) As per claim 2, Javors discloses the method wherein the step of distributing the predetermined percentages of the savings includes dividing the savings between the

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healthcare consultation group, the healthcare practice, and the insurance network (Page 6, Paragraph 0084-0085).

(C) As per claim 3, Javors discloses the method further comprising collecting no fee if the healthcare practice does not reduce the ancillary medical costs to the preselected level over the predetermined period of time (Page 2, Paragraph 0031-0034).

(D) As per claim 4, Javors discloses the method wherein each of the respective predetermined percentages of savings distributed to the healthcare consultation group and the healthcare practice are greater than the predetermined percentage of the savings distributed to the insurance network (Page 3, Paragraph 0050-0055).

(E) As per claim 5, Javors discloses the method further comprises providing a billing structure wherein the savings are calculated by subtracting current ancillary medical costs from predetermined baseline ancillary medical costs (Page 5, Paragraph 0072-0076).

(F) As per claim 6, Javors discloses the method further comprising calculating the fee for the healthcare consultation group by multiplying a predetermined percentage of the savings by the number of patients participating in the healthcare practice (Page 6, Paragraph 0084-0086; Page 7, Paragraph 0098-0101).

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(G) As per claim 7, Javors discloses the method wherein the ancillary medical costs include any costs taken from the group of pharmacy, radiology, laboratory, anesthesiology, occupational therapy, physical therapy, speech therapy, therapeutic radiology, operating room, or emergency room costs (Page10, Paragraph 0174-0186).

(H) As per claim 8, Javors discloses a method of collecting fees for managing and optimizing the profitability of a plurality of physicians in a healthcare practice participating in an insurance network (Abstract, lines 1-16; Page 1, Paragraph 0014-0016), the method comprising the steps of:

distributing predetermined percentages of savings attributed to the physicians' modified ancillary medical cost management behavior (Page 3, Paragraph 0037-0040).

Javors does not explicitly disclose that establishing a relationship between a healthcare consultation group and the healthcare practice participating in the insurance network to increase the physician's profitability by reducing a risk of not receiving a predetermined reimbursement amount for ancillary medical costs from the insurance network (Col.8, lines 36-67 to Col.9, line16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of McCallum within the system of Javors with the motivation of providing physician groups with detailed cost information regarding their patients to facilitate cost and care management in individual practices (See McCallum, Col.3, lines 48-62).

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(I) As per claim 9, Javors discloses the method further comprises funding an incentive pool to be paid to the healthcare practice participating in the insurance network if the ancillary medical costs of the plurality of physicians in the healthcare practice do not decrease to a preselected level over a preselected period of time (Page 2, Paragraph 0031-0034).

(J) As per claim 10, Javors discloses the method wherein the step of distributing the predetermined percentages of the savings includes dividing the savings between the healthcare consultation group, the healthcare practice, and the insurance network (Page 6, Paragraph 0084-0085).

(K) As per claim 11, Javors discloses the method further comprising collecting no fee if the healthcare practice does not reduce the ancillary medical costs to the preselected level over the predetermined period of time (Page 2, Paragraph 0031-0034).

(L) As per claim 12, Javors discloses the method wherein each of the respective predetermined percentages of savings distributed to the healthcare consultation group and the healthcare practice are greater than the predetermined percentage of the savings distributed to the insurance network (Page 3, Paragraph 0050-0055).

(M) As per claim 13, Javors discloses a method of collecting fees for managing and optimizing the profitability of an insurance network having a plurality of physicians in a healthcare practice participating therein (Abstract, lines 1-16; Page 1, Paragraph 0014-0016), the method comprising the steps of:

distributing predetermined percentages of savings attributed to the physicians' modified ancillary medical cost management behavior (Page 3, Paragraph 0037-0040).

Javors does not explicitly disclose that establishing a relationship between a healthcare management consultation group and the healthcare practice participating in the insurance network to increase the insurance network's profitability by limiting the plurality of physicians' ancillary medical cost management behavior that is not preferred by the insurance network.

However, this feature is known in the art, as evidenced by McCallum. In particular, McCallum suggests that establishing a relationship between a healthcare management consultation group and the healthcare practice participating in the insurance network to increase the insurance network's profitability by limiting the plurality of physicians' ancillary medical cost management behavior that is not preferred by the insurance network (Col.8, lines 36-67 to Col.9, line16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of McCallum within the system of Javors with the motivation of providing physician groups with detailed cost information regarding their patients to facilitate cost and care management in individual practices (See McCallum, Col.3, lines 48-62).

(N) As per claim 14, McCallum discloses the method further comprising funding an incentive pool to be paid to the insurance network if the modified medical management

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practices do not decrease ancillary medical costs of the insurance network to a preselected level over a preselected period of time (See McCallum, Col.8, lines 36-67 to Col.9, line 22).

(O) As per claim 15, Javors discloses the method wherein the step of distributing the predetermined percentages of the savings includes dividing the savings between the healthcare management consultation group, the healthcare practice, and the insurance network (Page 6, Paragraph 0084-0085).

(P) As per claim 16, McCallum discloses the method further comprising collecting no fee if the insurance network does not decrease ancillary medical costs to the preselected level over the preselected period of time (See McCallum, Col.8, lines 36-67 to Col.9, line 22).

(Q) As per claim 17, Javors discloses the method wherein each of the respective predetermined percentages of savings distributed to the healthcare consultation group and the insurance network are greater than the predetermined percentage of the savings distributed to the healthcare practice (Page 6, Paragraph 0084-0086; Page 7, Paragraph 0098-0101).

(R) As per claim 18, Javors discloses the method further comprises providing a billing structure wherein the savings are calculated by subtracting current ancillary

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medical costs from predetermined ancillary medical costs (Page 10, Paragraph 0174-0176).

(S) As per claim 19, Javors discloses the method further comprising calculating the fee for the healthcare consultation group by multiplying a predetermined percentage of the savings by the number of patients participating in the healthcare practice (Page 7, Paragraph 0110-0115).

(T) As per claim 20, Javors discloses the method wherein the ancillary medical costs include any costs taken from the group of pharmacy, radiology, laboratory, anesthesiology, occupational therapy, physical therapy, speech therapy, therapeutic radiology, operating room, or emergency room costs (Page 10, Paragraph 0174-0188).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied teaches system and method for supporting delivery of health care (6,012,035), system for monitoring and managing the health care of a patient population (6,385,589), system for and method of collecting and populating a database with physician/patient data for processing to improve practice quality and healthcare delivery (6,151, 581) and system and method for replacing a liability with insurance and for analyzing data and generating documents pertaining to a premium financing mechanism paying for such insurance (6,026, 364).

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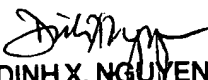
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 703-305-4952. The examiner can normally be reached on 6:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

V.F
V.F

April 4, 2003


DINH X. NGUYEN
PRIMARY EXAMINER